

NEXUS BANKRUPTCY
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Attorney for Debtor

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
RIVERSIDE DIVISION

In re:

YVONNE GIOVANNA STEWART
Debtor.

Case No: 6:23-bk-10528-SY

Chapter 13

**DECLARATION OF YVONNE STEWART
IN SUPPORT OF MOTION TO IMPOSE
STAY**

FEASIBILITY

The Opposition is intentionally distorting the Debtor's current and prior income and expenses and misapplying those distorted figures to categorize this case as being "the same as the last one" and, therefore, infeasible.

In the Amended Schedules I & J filed along with the Motion to Modify in the 2019 Case, her income was based on her two most recent paystubs from her two employers which showed that her net income from employment was \$6,917. In her present case, her net income from employment is \$11,154.

In the 2019 Case, the Debtor listed her monthly rental receipts on Schedule I and then listed the corresponding mortgage payments on Schedule J. In the present case, she lists her *net* income from rental property on Schedule I and did not separately list the corresponding mortgage payments on Schedule J. If the Schedules I & J from the 2019 Case Motion to Modify listed net income from rental property on Schedule I, then her total monthly net income would have been shown as \$7,506 – not \$12,337.

1 The Opposition states “scheduled expenses in the current case are significantly less than
2 Debtor’s scheduled expenses in her prior two bankruptcy cases’. Opposition at p. 6, #9. Again,
3 this is based on separating the rental receipts and rental mortgage payments. If the mortgage
4 payments on Schedule J in the prior case were moved to Schedule I, then her monthly expenses
5 would be shown as \$2,673. However, in the present case, her income is sufficient to show that
6 she can carry a much more sustainable budget with \$4,328 of regular monthly expenses, and still
7 have nearly five times the amount of disposable income necessary to fund her plan.

8 Counsel for Fay Servicing / Wilmington Trust has obviously carefully reviewed the
9 Schedules I and J filed in these cases and is fully aware that the differences between the
10 Schedules referenced in their Opposition are largely due to the fact that the rental property
11 mortgage payments were listed on Schedule J in the 2019 Case and are now listed on Schedule I
12 in the present case.

13
14 **DISMISSAL FOR FAILURE TO INCLUDE SIGNATURE PAGES**

15 To belabor this point more, Debtor did timely provide her attorney with signature pages
16 which were, at that time, unusable. Attached hereto as Exhibit A are several images which
17 illustrate this. Image #1 shows that the email was sent from the work scanner at her job at Conejo
18 Valley Healthcare and that the attachment is a “TIFF” file. Images #2 & 3 show that the default
19 program in Windows for opening TIFF files is the Photos application. Image #4 shows that
20 Windows interprets this file as a single 1704x2200 pixel image taken from a Ricoh camera¹.
21 Image #5 shows that there is a context menu option to convert the file to PDF. Image #6 shows
22 that when the TIFF file is converted to a PDF, it unfolds into a 16-page PDF document. It was
23 not discovered until well after the case had been dismissed that it was possible to convert a TIFF
24 file into a PDF.

25
26
27 _____
28 ¹ Ricoh is a company that makes printers and scanners. They do not make cameras.

DECEMBER 2021 TO FEBRUARY 2023 MORTGAGE PAYMENTS

It is conceded that Debtor fell behind on her mortgage payments. However, before Debtor could make any headway on the Adequate Protection Agreement, the case was dismissed for other reasons. After the dismissal had occurred, the property was back in pre-foreclosure status and the lender would no longer accept mortgage payments. As stated in the instant Motion, her plan after the 2019 Case was dismissed was to regain her financial footing so that she could hit the ground running on the present case, which is exactly what she has now done.

CONCLUSION

The instant bankruptcy proceeding is not what Congress had in mind when the stay-limiting provisions of Section 362 were enacted. Debtor is not a serial filer. The 2019 Case was dismissed primarily due to a mistake on the Debtor's part regarding the purchase of real estate. The January 2023 Case was dismissed due to a technical defect regarding signature pages. She did not just file to invoke a 14-day stay and she had the full intention and ability to succeed in that case, just like she does in the instant case.

Respectfully submitted,

Date: February 28, 2023


BENJAMIN HESTON

DECLARATION OF BENJAMIN HESTON

I, Benjamin Heston, declare as follows:

I am the attorney for the Debtor in this bankruptcy proceeding. I have personal knowledge of all matters stated herein. On all matters stated on information and belief, I believe those allegations to be true. I could competently testify to the allegations contained herein.

After Debtor filed her case on January 20, 2023, she and I worked together over the next two weeks to finish preparing her case. On February 3, 2023, the case commencement documents were completed, and I sent them to the Debtor for her to review and sign.

On February 3, 2023, Debtor sent me an email which originated from her work email address that contained a "TIFF" file. Based on my own background in photography and graphic design, I was aware of this file type is commonly used for high-resolution imagery because other filetypes such as JPG can result in degradation of image quality. I tried several times to open this, but it would only show up as a single image containing one signature page. After some back and forth with my client, I attempted to file the documents first with /s/ signatures, and then with copy and pasted signatures. Prior to filing these documents, I had read LBR 9001-1 and believed that it was allowable under the rules to file with inserting holographic signatures into the PDF.

After the case had already been dismissed, I continued to be bothered by the fact that my client was adamant that the email she sent had all of the signature pages that I requested. I started poking around to see if there was any stone left unturned. On a whim, I right clicked the file which brought up an option to convert to PDF. The file then opened up into a 16-page PDF that contained all of the signature pages necessary to complete the filing.

Attached hereto as Exhibit A are screenshots that I made which illustrate the facts stated above.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date: February 28, 2023


BENJAMIN HESTON

EXHIBIT A



Ben Heston <ben@nexusbk.com>

signature pages

1 message

staff conejovalleyhealthcare.com <staff@conejovalleyhealthcare.com>

Fri, Feb 3, 2023 at 8:52 PM

To: "ben@nexusbk.com" <ben@nexusbk.com>

Cc: "[REDACTED]" <[REDACTED]>

#1



20230203204856184.tif
415K

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Attorney or Party Name, Address, Telephone & FAX Nos.,
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Bar Number: 297798
Attorney for Debtor

FOR COURT USE ONLY

☐ Individual appearing without attorney
☒ Attorney for Debtor

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE DIVISION

In re:
Yvonne Giovanna Stewart

CASE NO.: 6:23-bk-10196-SY
CHAPTER: 13

SUMMARY OF AMENDED SCHEDULES,
MASTER MAILING LIST,
AND/OR STATEMENTS
[LBR 1007-1(c)]

Debtor(s)

A filing fee is required to amend Schedules D or E/F (see Abbreviated Fee Schedule on the Court's website www.cdc.uscourts.gov). A supplemental master mailing list (do not repeat any creditors on the original) is required as an attachment if creditors are being added to the Schedule D or E/F.
Are one or more creditors being added? ☐ Yes ☐ No

The following schedules, master mailing list or statements (check all that apply) are being amended:

☐ Schedule A/B ☐ Schedule C ☐ Schedule D ☐ Schedule E/F ☐ Schedule G
☐ Schedule H ☐ Schedule I ☐ Schedule J ☐ Schedule J-2 ☐ Statement of Financial Affairs
☐ Statement About Your Social Security Numbers ☐ Statement of Intention ☐ Master Mailing List
☐ Other (specify) _____

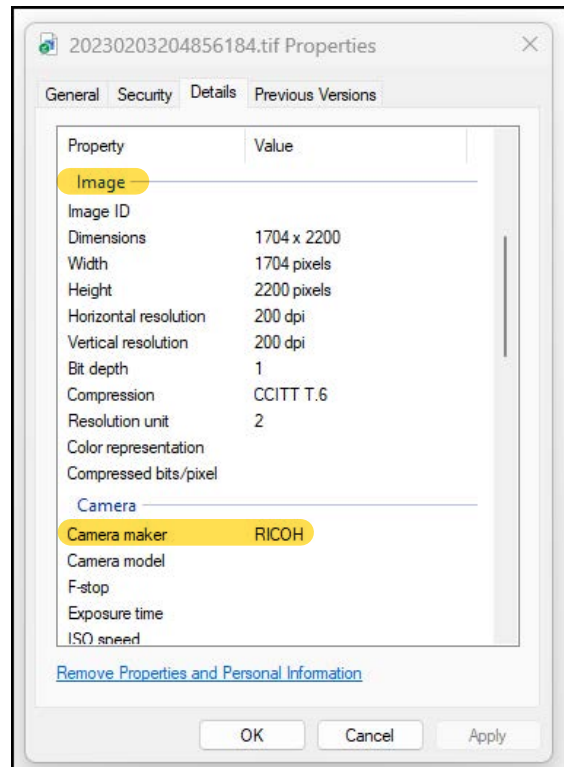
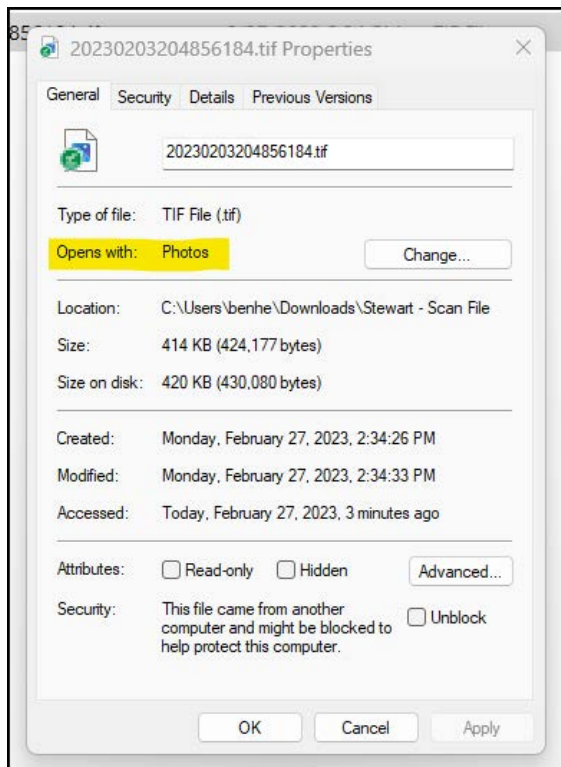
I/we declare under penalty of perjury under the laws of the United States that the amended schedules, master mailing list, and/or statements are true and correct.

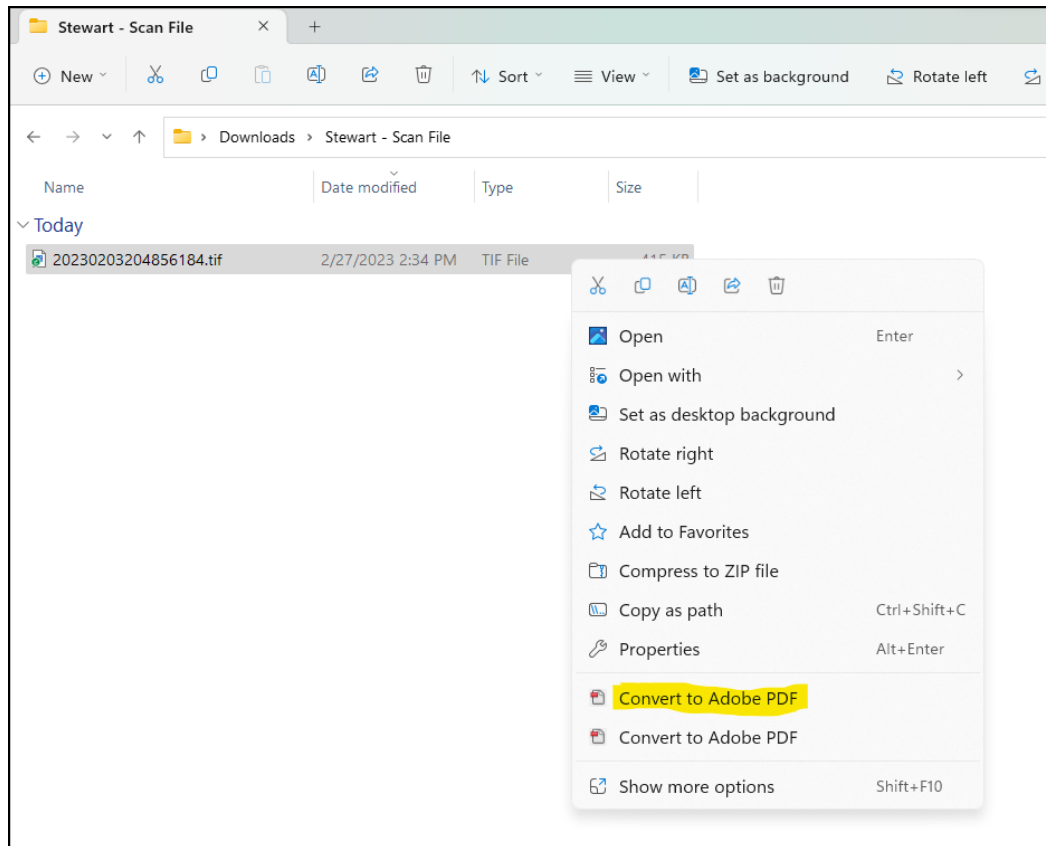
Date: _____
Yvonne Giovanna Stewart
Debtor 1 Signature

Debtor 2 (Joint Debtor) Signature (if applicable) _____

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.
December 2015 Page 1 F 1007-1.1.AMENDED.SUMMARY

#2





#5

A screenshot of the Adobe Acrobat Pro interface displaying a PDF document titled "20230203204856184.pdf". The document is a bankruptcy form titled "Official Form 106Dec Declaration About an Individual Debtor's Schedules". The form includes sections for identifying the debtor, declaring the filing, and signing. The debtor's name is "Yvonne Giovanna Stewart". The case number is "6:23-bk-10528-SY". The form is dated "02/28/2023". A red "#6" is overlaid on the right side of the screenshot.

Fill in this information to identify your case:

Debtor 1	Yvonne	Giovanna	Stewart
	First Name	Middle Name	Last Name

Debtor 2 (If spouse, filer)

	First Name	Middle Name	Last Name
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United States Bankruptcy Court for the: Central District of California

Case number (if known): 6:23-bk-10528-SY

☐ Check if this is an amended filing

Official Form 106Dec
Declaration About an Individual Debtor's Schedules 12/15

If two married people are filing together, both are equally responsible for supplying correct information.

You must file this form whenever you file bankruptcy schedules or amended schedules. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 30 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Sign Below.

Did you pay or agree to pay someone who is NOT an attorney to help you fill out bankruptcy forms?

☒ No

☐ Yes. Name of person _____ Match Bankruptcy Petition Chapter's Name, Declaration, and Signature (Official Form 119).

Under penalty of perjury, I declare that I have read the summary and schedules filed with this declaration and that they are true and correct.

X *Yvonne Stewart*
Yvonne Giovanna Stewart, Debtor 1

Date: 02/28/2023
MM DD, YYYY

Official Form 106Dec: Declaration About an Individual Debtor's Schedules

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**100 Bayview Circle, Suite 100
Newport Beach, CA 92660**

A true and correct copy of the foregoing document entitled (*specify*): **REPLY IN SUPPORT OF MOTION TO IMPOSE STAY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 2/28/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Rod Danielson (TR) notice-efile@rodan13.com
Edward A Treder cdcaecf@bdfgroup.com
United States Trustee (RS) ustpreion16.rs.ecf@usdoj.gov
Darlene C Vigil cdcaecf@bdfgroup.com

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) _____ I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL

Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 2/28/2023, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed (state method for each person or entity served):

The Honorable Scott H. Yun – Personal Delivery

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

2/28/2023
Date

Benjamin Heston
Printed Name

/s/Benjamin Heston
Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.